

1  
2  
3  
4  
5           **IN THE UNITED STATES DISTRICT COURT**  
6           **FOR THE EASTERN DISTRICT OF WASHINGTON**

7           CODY LOUIS HOPKINS,

8                         Plaintiff,

9           v.

10           DON HOLBROOK, CERDENCE  
11           WENDLE and CHARLIES PEASE,

12                         Defendants.

13                         NO: 4:16-cv-05159-LRS

14                         ORDER DISMISSING COMPLAINT  
15                         WITH PREJUDICE

16                         **1915(g)**

---

17           By Order filed March 2, 2017, the Court advised Plaintiff, then a prisoner at the  
18 Washington State Penitentiary, of the deficiencies of his complaint and directed him to  
19 amend or voluntarily dismiss within sixty (60) days, ECF No. 7. Plaintiff had failed to  
20 present facts indicating supervisory Defendants Holbrook or Pease were aware of  
constitutional violations or that such violations were caused by a custom or policy they  
established. *See Starr v. Baca*, 652 F.3d 1202, 1207 (9th Cir. 2011).

21           Further, Plaintiff had failed to present facts showing Defendant Wendle was  
22 deliberately indifferent to Plaintiff's vulnerability in November 2016. *See White v.*  
23 *Roper*, 901 F.2d 1501, 1503-04 (9th Cir. 1990); *Wilson v. Seiter*, 501 U.S. 294 (1991);

1      *Redman v. Cnty. of San Diego*, 942 F.2d 1435, 1443 (9th Cir. 1991), *abrogated in part*  
2      *on other grounds*, *Farmer v. Brennan*, 511 U.S. 825 (1994). He also failed to present  
3      facts from which the Court could infer that identified Defendants were deliberately  
4      indifferent to his health and safety. *Farmer*, 511 U.S. at 835.

5      On March 2, 2017, the Court was notified by electronic means of Plaintiff's  
6      release from incarceration and was provided with his apparent residential address in  
7      Benton City, Washington. Documents were then mailed to Mr. Hopkins at that address.  
8      Although granted the opportunity to amend his complaint to cure the deficiencies set  
9      forth above and in the Court's prior Order, Plaintiff did not comply with the Court's  
10     directives and has filed nothing further in this action.

11     Therefore, **IT IS ORDERED** the complaint, ECF No. 6, is **DISMISSED**  
12     **without prejudice** pursuant to 28 U.S.C. §§ 1915A(b)(1),(2) and 1915(e)(2).

13     Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who brings  
14     three or more civil actions or appeals which are dismissed as frivolous or for failure to  
15     state a claim will be precluded from bringing any other civil action or appeal *in forma*  
16     *pauperis* "unless the prisoner is under imminent danger of serious physical injury." 28  
17     U.S.C. § 1915(g). **Plaintiff is advised to read the statutory provisions under 28**  
18     **U.S.C. § 1915. This dismissal of Plaintiff's complaint may count as one of the three**  
19     **dismissals allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to**  
20     **file future claims.**

**IT IS SO ORDERED.** The District Court Executive is directed to enter this Order, enter Judgment, forward copies to Plaintiff at his last known address, and **CLOSE** the file. The District Court Executive is further directed to forward a copy of this Order to the Office of the Attorney General of Washington, Corrections Division. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not be taken in good faith and would lack any arguable basis in law or fact.

**DATED** this 14th day of June, 2017.

*s/Lonny R. Suko*

LONNY R. SUKO  
SR. U.S. DISTRICT JUDGE